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PAPER

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1 RECORD OF ORAL HEARING
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3 UNITED STATES PATENT AND TRADEMARK OFFICE
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6 BEFORE THE BOARD OF PATENT APPEALS
7 AND INTERFERENCES
8

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10 Ex parte SERGEY N. RAZUMOV
11

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13 Appeal 2008-0121
14 Application 09/891,321
15 Technology Center 3600
16

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18 Oral Hearing Held: June 19, 2008
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22 Before MURRIEL E. CRAWFORD, DAVID B. WALKER, and JOHN C.
23 KERINS, Administrative Patent Judges
24

25 ON BEHALF OF THE APPELLANT:
26

27 ALEXANDER V. YAMPOLSKY, ESQUIRE
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34 The above-entitled matter came on for hearing on Thursday, June 19, 2008,
35 commencing at 9:30 am, at the U.S. Patent and Trademark Office, 600
36 Dulany Street, Alexandria, Virginia, before Deborah Rinaldo, Notary Public.

PROCEEDINGS

JUDGE CRAWFORD: Good morning, Mr. Yampolsky. You can begin whenever you are ready.

MR. YAMPOLSKY: This case is kind of unusual because it relates more to human nature, human psychology. For me, quite frankly, it's a first time patent application which relates to connection between human nature, human perceptions and technology. In this case, it's online shopping.

We all know, of course, online shopping extremely popular. But certain items very difficult to buy online. For example, like clothes or shoes or something that people want to try, try on before buying.

And research shows that people very reluctant to buy online these items because their first desire, I want to try it first. But of course it's impossible to do online.

But online gives another good advantage, actually. It can provide basically unlimited assortment for certain stuff. It's like you can select whatever suit you want, whatever dress, thousands items available.

And again, the same problem: I want to select among thousand items, but I don't want to search all this stuff because when I look at Internet and see thousand items, I don't want anything anymore.

This is basically problem that this inventor wanted to solve. It's the reason why I told you it's kind of very unusual case. When I wrote it, you know, I was kind of a little bit amazed, my friend.

Then basically he found kind of unusual solution, I would say. He believe, okay, if people can't try on stuff before buying definitely, then let's select some kind of people representatives, human being who will try stuff,

1 goods certainly, before putting it online.

2 And basically he found that each category can be described by certain
3 amount of specific features, that each body can be categorized in certain
4 way.

5 For example, he believes that to represent suits, men's suits, for
6 example, you need about like 50, 60 different categories depending on shape
7 or whatever and different characteristics. Age, probably. A lot of stuff. I'm
8 not an expert on tailoring.

9 But basically he experimented on that and found that if he hire, for
10 example, 60 human models to try on everything which he has, for example,
11 in some huge warehouse, it can represent experience for everybody. But
12 problem is how basically to relay this experience to us who will buy it
13 online.

14 And he suggested to match each customer to his or her representative
15 who already tried this stuff, computer matching, of course.

16 Basically this guy run a grocery store, and he has a lot of grocery
17 chain, and he has a lot of customers who come in anyway to buy groceries.
18 And he put some kind of measuring room of a tailor. Then when you came
19 to buy groceries, you can make measurement of yourself and determine
20 everything you want. Actually, they have complete basically list of your
21 characteristics or whatever.

22 And when you are buying online, they determine actually what you
23 are buying and select to which category or to which group you relate and
24 found model -- human model which represents this category.

25 Again, how to limit number of items. These human models, ones that
26 are wearing stuff, they are doing it together probably with experts and they

1 put some kind of marks, quantitative marks from, I don't know, five to one,
2 for example, to represent experience.

3 I tried, for example, certain suit. I feel very comfortable, but it's still
4 not great or whatever. Then I put three, for example. I feel that this is
5 perfect, I put five, right. Then basically each representative, basically,
6 human models, puts certain marks when he tries some stuff. And they have,
7 of course, for each good in each categories, they have these marks.

8 When I am shopping online, for example, I trust my human
9 representative. I don't want to look alone. So I select that I want to look
10 only among five stars item, for example. Only perfect for myself.

11 Then I have some kind of limited assortment, five, six, or whatever. I
12 don't need to -- if I'm skeptical or I didn't find anything, okay, I will look
13 four stars. Stuff like that.

14 Very simple, you know, but kind of, of course strange, I will say. I
15 called it crazy, but I can do it, of course, for invention. But unusual, at least.

16 Basically customer can select what was selected for him and can
17 select this narrow group based on the representative that tried on all stuff in
18 this category. Then basically instead of thousands items, I can limit myself
19 to three, four.

20 Of course, computer can do it whatever you want. Then it's clear that
21 you can play with this stuff whatever necessary depending on your eyes or
22 whatever. Probably you can select representatives.

23 And only problem here probably is economy. I don't know how
24 economical it going to be. Probably very expensive, of course, to try
25 everything. But at least something new.

26 Claim very narrow, very straightforward. I'm not sure if you want me

1 to read it. I just printed it out. Basically I was trying to write as narrow and
2 as straightforward as possible just to represent this concept.

3 Then it's a method of selling goods comprising the steps of selecting
4 human models first of all, of course; representing categories and trying on
5 goods by human models in respective category; and of course one model
6 should be assigned to each category.

7 Then we're obtaining body measurements of customer to find out,
8 actually, where to size. And then based on body measurements, computer
9 system assign customer to certain category and basically match it with his or
10 her representative.

11 Then computer system determines these quantitative revelation marks,
12 selecting smaller group and customer is enabled basically to access this
13 group and to buy this narrow stuff. They are very specific steps and very
14 specific claims.

15 Now, prior art is kind of -- basically examiner applied primary -- prior
16 art is a publication. It's called Accounting and the Internet. Basically it's
17 some kind of article in new accounting magazine which -- for accounting
18 which just describes some kind of custom tailored online company named
19 Virtual Clothiers or whatever.

20 What this company doing, they just accept orders for tailoring. It's not
21 shopping online even. Quite frankly, I was surprised because I believed that
22 then I could find at least something shopping online. So many publications
23 now shopping online.

24 But anyway, this company accept order through Internet. And only
25 things that they are doing is they play video clips displaying video and some
26 clips are available to display and describe the clothing on human models

1 with varying physical characteristics. It's basically only mentioning of
2 human models and everything I told you before.

3 What these people doing is when you are ordering your stuff, you can
4 look at clips of different models showing different stuff. Basically I believe
5 this is pretty standard because on any site you can see a lot of video clips, a
6 lot of models, basically like fashion show. In some stores when you come,
7 you see on screens fashion show like models. But has probably nothing in
8 common.

9 Then they accept order and create this tailor-made stuff based on
10 mathematical models, what's interesting. And this is actually important here
11 because when I wrote my case, I ask the guy, Why actually you need human
12 models? Probably it's much easier to put mathematical models there. Quite
13 logical for me.

14 Told that it's exactly against his invention because his invention is
15 about human perception. I don't know whether he's right or wrong, but at
16 least he believes that only human being can represent experience of another
17 human being.

18 The reason why actually from the very beginning I limited application
19 only to human beings and even put some sentence in specification that
20 claimed invention addresses problem of inability of computer-generated
21 images generated based on mathematical models to accurately represent
22 human bodies.

23 And basically our invention is -- again, what's interesting actually is
24 that inventor is mathematician. And it was kind of surprising, but maybe
25 mathematician doesn't believe in mathematical models. Maybe it's normal,
26 actually.

1 This is a primary reference. Secondary reference was applied by
2 examiner to address quantitative validation marks because, of course, this
3 primary reference say nothing about determining validation marks for
4 different goods or whatever. Nothing at all, quite frankly.

5 And examiner applied different patent. This patent, Gazzuolo, it's
6 again virtual fitting rooms. It's, again, about custom -- about tailoring. It's,
7 again, about trying to create tailor-made stuff online based on your
8 measurement.

9 And again they used mathematical model, but they allow you to select
10 whether you want a fitted model or you want more loose or more -- and if
11 it's fitted, that it's one. If it's loose, it's two. If it's just less tight, then it's
12 four. Like that. Then absolutely different marks. It doesn't try to preselect
13 stuff or to limit, actually, this category.

14 When I tried to find like in consideration of obviousness, of course I
15 was trying to find difference between combined teaching of the reference
16 and claimed invention.

17 And of course it seems that we don't -- the difference is that invention
18 allows matching customer -- computer matching customer with human
19 models, human representative to find correct human representative for
20 model and selecting -- preselecting smaller number of items among goods
21 available in the certain category based on the marks established when it was
22 tried by this model.

23 The language kind of difficult, but you know, it's difficult to describe,
24 quite frankly, this invention. I had real problems writing this case, as you
25 can imagine, because it's very unusual.

26 Basically I thought about unexpected results, of course, and it seems

1 that results quite unexpected. At least I would never expect from approach
2 like that to solving a problem for online shopping.

3 I'm not sure that this approach will work, but at least it's kind of
4 unusual probably. And if it's unusual, it's more crazy than obvious,
5 probably, I will say, quite frankly.

6 Just problem with this case is that if you look at each step separately,
7 then nothing special actually because okay, you select human, okay you are
8 trying, okay you determine based on body measurement, assign a customer.

9 You know, each step it's typical approach when -- you can't consider
10 obviousness based on each separate step. You need to look at invention as a
11 whole. It's never that important as in this case.

12 If I had some -- if I was able, actually, to describe claims maybe in
13 kind of unusual language but just probably it's impossible because you
14 describe it in each kind of regular step. And as a result, in combination you
15 have invention, but if you put step-by-step approach, of course, if you
16 compare, you find something, of course.

17 Like examiner told me, Okay, you determined validation marks. I
18 look at stuff, at this monitor and see whether it's bad or good. It's a
19 validation mark. Yes, it's validation mark. He's right.

20 But you can't look just at this step. You can look at everything
21 probably. My point is that please look at it as a whole. Thank you.

22 JUDGE CRAWFORD: Thank you.

23 (Whereupon, the proceedings at 9:18 a.m. were concluded.)